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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/608,911

06/27/2003

David Armes

03292.101720

7059

66569 7590 10/09/2007
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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

CUFF, MICHAEL A

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/608,911

Applicant(s)

ARMES ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20040503</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-9 and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Halliday et al.

Halliday et al. shows, figure 4, a system for accurate time and usage based metering of client application or client application feature usage and the reporting of said usage to a site on a public network.

From page 3, second column:

A basic overview of operation of the present invention is as follows:

A user will first create an account with the central billing site 1J and add some credit to his account using well known financial on site or remote transaction facilities and methods.

The user will then load from a data storage medium (such as a magnetic disk or tape, optical disk including CD ROM and DVD, electronic storage media including ROMcard and RAM-card, or any other suitable data storage means), or download from a proprietor's website to his local computer, one or more specially

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configured software packages. These packages may include, in addition to the client application, an application library (solution stack) having metering means for developing and communicating usage information to an also included metering monitor. An included login tool (request for a transaction) provides an interactive front end to the metering monitor and enables the user to logon to the remote metering system (integration block, single point access). The logon process will map the local user on the client computer to an account held in the remote database, and such account will be charged as usage of an application is accumulated. Once logged on, any applications running (evidence of accessing and providing results) as a local user will be charged to the remote account. The metering monitor software on the client computer is responsible for accepting usage information from a client application and forwarding that information to the central billing server. Further, the metering monitor is operative to track application exits and to close charging sessions for applications that exit spuriously. In an alternative embodiment of the present invention, the metering monitor may also act as a proxy server, accumulating metering information and forwarding the information as a batch to the central server at periodic intervals set by the server. This is intended to minimize the amount of time the client computer needs to be in contact with its metering server.

Applications are executed. As the applications execute vendor code calls (determining s/w programs) to the client library to indicate that features are in use, the library will forward this information to the metering monitor. The

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metering monitor will then associate this application with a server account via the map of logged-in users and forward the information to the metering server.

Examiner, per 37 CFR 1.104 (c) (2), has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halliday et al. in view of Suorsa, Yu, Roche, Vaghi and Taylor et al.

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Halliday et al. shows all of the limitations of the claims except for specifying particular software services, including credit card processing, calculation of taxes, warehouse management, shipping and invoicing.

Suorsa teaches, column 2, line 17, credit card processing software.

Yu teaches, column 2, line 65, calculation of taxes software.

Taylor et al. teaches, column 9, lines 12-13, warehouse management software.

Vaghi teaches, column 2, line 55, shipping software.

Roche teaches, column 8, line 68 invoicing software.

Based on the teachings of Suorsa, Yu, Roche, Vaghi and Taylor et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to specify known software applications, including credit card processing, calculation of taxes, warehouse management, shipping and invoicing software, as part of the Halliday application library in order to generate greater revenue from the usage of known software.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 9/29/07

Michael Cuff
September 29, 2007